



https://www.postguam.com/news/local/court-to-decide-on-h--b-preliminary-injunction-in/article_ada9e180-6863-11e7-8519-4705e7553776.html

Court to decide on H-2B preliminary injunction in August

Louella Losinio | The Guam Daily Post Jul 14, 2017 Updated 17 hrs ago



LAWSUIT: From left, Robert Manalo, vice president, 5M Construction Corp.; Larry Manalo, vice president, 5M Construction; Jennifer Davis, attorney, Davis & Davis P.C.; Nelson Del Carmen, president, Marianas Linen Supply; and Arthur J. Zantua, executive chef, Fresh Bread Bakeshop; announce the filing of a lawsuit against the federal government over the denial of H-2 worker visas on Oct. 4, 2016, at the Guam Contractors Association office in Upper Tumon. Post file photo

A decision to a preliminary injunction, filed by 12 plaintiffs in the ongoing civil lawsuit over H-2B visa denials, will be decided in the District Court of Guam in early August.

Late last year, the plaintiffs filed an order requiring the United States Citizenship and Immigration Service to grant their H-2B petitions immediately and extend labor certifications to such a time needed to provide relief.

Yesterday morning, District Court Magistrate Judge Joaquin Manibusan held a status conference on the civil lawsuit filed by the Guam Contractors Association and 11 other companies, to discuss the procedural posture of the case and other issues.

"There will be a decision on the plaintiffs' preliminary injunction – to get some immediate relief from all of the denials," said Jennifer Davis, attorney for the plaintiffs.

"We would have to see how the court issues its decision because so much time has passed, and some of those circumstances have changed on the preliminary injunction," she said.

"The desire was always to get immediate relief for the plaintiffs and other employers on Guam."

After the court issues a decision on the preliminary injunction, other motions are still pending – including a motion for class certification, according to Davis. If granted, it would make a decision rendered in the case equally applicable to all filers of H-2B applications that have had denials.

A follow-up status conference will be convened Aug. 24 at 8:30 a.m.

Lawsuit filed last October

Back in October 2016, GCA along with 11 other plaintiffs filed a lawsuit against the U.S. government in the District Court of Guam.

At the time of the filing, the 12 plaintiffs sought to have H-2B applications approved, having already demonstrated temporary need under the classifications of one-time occurrence and peak-load need.

While GCA mainly comprises construction and related professionals and companies, some of the other plaintiffs represent a range of industries including medical, food manufacturing, retail and small business.

In Guam, the number of H-2B workers continues to decrease and the rate of visa issuance is at a standstill despite a U.S. Department of Homeland Security announcement of plans to issue more seasonal H-2B visas for the U.S. mainland this year. In the 2017 Consolidated Appropriations Act, a provision was included authorizing Homeland Security to increase the H-2B visa cap for the U.S. mainland.

The stagnant rate of visa approvals continues despite the existing H-2B visa cap exemption, which covers workers performing labor or services in the Commonwealth of Northern Mariana Islands and

Guam from Nov. 28, 2009, until Dec. 31, 2019.

Louella Losinio